

SENATE BILL 3587

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 57, Part 1; Title 56, Chapter 7, Part 29; Title 56, Chapter 7, Part 30; Title 71, Chapter 3, Part 11 and Title 71, Chapter 5, Part 25, relative to offenses for committing fraud and for doctor shopping involving to the Cover Tennessee, Cover Rx, Access TN, and CoverKids programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-7-2912, is amended by designating the existing language as subsection (a) and by adding the following language as new, subsections:

(b) Any false or fraudulent insurance claim related to the Access Tennessee program or any successor program shall be punished as provided in. § 39-14-133. The office of inspector general may provide legal assistance to the attorney general and reporter or any district attorneys general for such prosecutions to the same extent as provided for TennCare fraud in § 71-5-2506.

(c)(1) A person, including an enrollee or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing the Access Tennessee program or any successor program, controlled substance benefits by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled

substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used the Access Tennessee program or any successor program to pay for either the clinical visit or for payment of the controlled substances.

(2) An offense under this subsection (C) is a Class E felony.

(3) Notwithstanding any other law to the contrary, prosecutions for violations of this subsection (C) shall be commenced within four (4) years after the commission of the offense, except as provided in § 40-2-103 – 106.

SECTION 2. Tennessee Code Annotated, Section 56-7-3022, is amended by designating the existing language as subsection (a) and by adding the following language as new subsections:

(b) Any false or fraudulent insurance claim related to the Cover Tennessee program or any successor program shall be punished as provided in § 39-14-133. The office of inspector general may provide legal assistance to the attorney general and reporter or any district attorneys general for such prosecutions to the same extent as provided for TennCare fraud in § 71-5-2506.

(c)(1) A person, including an enrollee or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing the Cover Tennessee program or any successor program. Controlled substance benefits by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same

controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used the Cover Tennessee program or any successor program to pay for either the clinical visit or for payment of the controlled substances.

(2) An offense under this subsection (C) is a Class E felony.

(3) Notwithstanding any other law to the contrary, prosecutions for violations of this subsection (C) shall be commenced within four (4) years after the commission of the offense, except as provided in § 40-2-103 – 106.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 3, Part 11, is amended by adding the following language as new, appropriately designated, sections:

Section 71-3-1113. The office of inspector general, created pursuant to § 71-5-2502, shall have the authority to investigate civil and criminal fraud and abuse of the program, or any other violations of state criminal law related to the operation of the program. The powers of the office of inspector general set forth in §§ 71-5-2501 – 72-5-2512 shall also be applicable to its investigation of fraud and abuse of the program.

Section 71-3-1114. Any false or fraudulent insurance claim related to the CoverKids program or any successor program shall be punished as provided in § 39-14-133. The office of inspector general may provide legal assistance to the attorney general and reporter or any district attorneys general for such prosecutions to the same extent as provided for TennCare fraud in § 71-5-2506.

Section 71-3-1115.

(a)(1) A person, including an enrollee or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation,

or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing the CoverKids program or any successor program. Controlled substance benefits by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used the CoverKids program or any successor program to pay for either the clinical visit or for payment of the controlled substances.

(b) An offense under this section is a Class E felony.

(c) Notwithstanding any other law to the contrary, prosecutions for violations of this section shall be commenced within four (4) years after the commission of the offense, except as provided in § 40-2-103 – 106.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 57, Part 1, is amended by adding the following language as a new, appropriately designated, section:

Section 56-57-107.

(a)(1) A person, including an enrollee or applicant, commits an offense who knowingly obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement, representation, or impersonation, or by concealment of any material fact, or by any other fraudulent means, or in any manner not authorized by any rule, regulation, or statute governing the Volunteer Rx program or any successor program. Controlled substance benefits

by knowingly, willfully and with the intent to deceive, failing to disclose to a physician, nurse practitioner, ancillary staff, or other health care provider from whom the person obtains a controlled substance, or a prescription for a controlled substance, that the person has received either the same controlled substance or a prescription for the same controlled substance, or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use, from another practitioner within the previous thirty (30) days and the person used the Volunteer Rx program or any successor program to pay for either the clinical visit or for payment of the controlled substances.

(b) An offense under this section is a Class E felony.

(c) Notwithstanding any other provisions of law to the contrary, prosecutions for violations of this section shall be commenced within four (4) years after the commission of the offense, except as provided in § 40-2-103 – 106.

SECTION 5. Tennessee Code Annotated, Section 71-5-2505(12), is amended by adding the following new language at the end of the subdivision.

Any false or fraudulent insurance claim related to the aforementioned acts or any successor programs thereto shall be punished as provided in § 39-14-133. The office of inspector general may provide legal assistance to the attorney general and reporter or any district attorneys general for such prosecutions to the same extent as provided for TennCare fraud in § 71-5-2506.

SECTION 6. Tennessee Code Annotated, Section 71-5-2507(b), is amended by inserting the language “or the Cover Tennessee Act of 2006, the Access Tennessee Act of 2006 or the CoverKids Act of 2006, Cover Rx or any successor programs thereto,” in the first sentence following the word “part” and preceding the word “is.”

SECTION 7. The provisions of this act are declared to be remedial in nature and all provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming law, the public welfare requiring it.